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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/527,324

03/10/2005

Khalil Hanna

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EXAMINER

DEAK, LESLIE R

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

06/11/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/527,324

Applicant(s)

HANNA, KHALIL

Examiner

Leslie R. Deak

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/10/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 5 are is rejected under 35 U.S.C. 102(3) as being anticipated by US 6,629,533 to Webb et al.

In the specification and figures, Webb discloses the apparatus as claimed by applicant. With regard to claims 1 and 5, Webb discloses a lachrymal implant comprising an elongate body 512 with a longitudinal axis and an elliptical top collar 518. The elongate body comprises a first portion with elliptical cross-section adjacent to the collar (see FIGS 6a, 6b) and a second portion 538 that extends at an oblique angle to the first portion.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,629,533 to Webb et al in view of US 6,406,453 to Goode et al.

In the specification and figures, Webb discloses the apparatus substantially as claimed by applicant (see rejection above) with the exception of providing two anchoring legs. Goode discloses an implant designed to be housed in a body cavity with an elongate portion 16 anchored by two legs 40, 42, that are approximately half the cross-section of the main body 16 and extend outwardly to retain the implant in place (see FIG 1 and accompanying text). It would have been obvious to one having ordinary skill in the art at the time of invention to add the two diverging branches disclosed by Goode to the implant disclosed by Webb in order to retain the implant in place while distributing the retaining pressure along a larger area, minimizing potential damage to the surrounding tissue.

6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,629,533 to Webb et al in view of US 5,993,407 to Moazed et al.

In the specification and figures, Webb discloses the apparatus substantially as claimed by applicant (see rejection above) with the exception of a transition zone between the first and second portions of the implant with a reduced diameter. Moazed discloses a lachrymal implant 100 comprised of a flexible biocompatible material with a first portion 122 with a first axis and diameter and a second portion 124 with a second axis and diameter, wherein the first and second portions are connected by an area of

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reduced diameter (see FIG 4). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to provide an area of reduced diameter as disclosed by Moazed to the implant disclosed by Webb in order to provide a weakened area for bending, illustrated by Moazed.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,629,533 to Webb et al in view of US 5,318,513 to Leib et al.

In the specification and figures, Webb discloses the apparatus substantially as claimed by applicant (see rejection above) with the exception of providing the collar in an offset position relative to the elongate body. Leib discloses and illustrates a lachrymal tube with an elongate body 12 and an offset collar with plug 20/22 (see FIG 2) that allows for retention of the implant along the eyelid 38 without blocking other passages. Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to provide the lachrymal implant disclosed by Webb with an offset collar as illustrated by Leib, in order to provide maximum retention while avoiding the blocking of other passages, as illustrated by Leib.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. US 6,238,363 Kurihashi
  - i. Offset elongate lachrymal plug
- b. EP 0 445 946 A1 Jahn

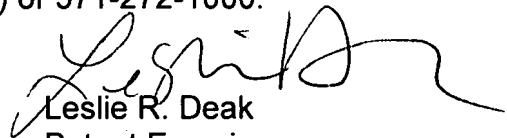
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ii. Ear vent with offset elliptical collar

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie R. Deak whose telephone number is 571-272-4943. The examiner can normally be reached on M-F 7:30-5:00, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Leslie R. Deak  
Patent Examiner  
Art Unit 3761  
7 June 2007